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**JUN 21 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Raghunath, et al. :  
Application No. 10/668,626 : DECISION ON PETITION  
Filed: September 23, 2003 :  
Docket No.: YOR920030220US1 :  
(8728-629) :

This is a decision on the renewed petition under 37 CFR 1.181, filed April 5, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application became abandoned June 7, 2006 for failure to timely submit a properly reply to the final Office action mailed March 6, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 21, 2006.

Petitioners continue to attribute the holding of abandonment to the Office's failure to mail the Office action to the correct correspondence address.

Petitioners' arguments have been carefully considered and found unconvincing.

A review of the record reveals that, as indicated by petitioners, a change of correspondence address was submitted April 11, 2005, August 1, 2005, and September 29, 2005, prior to the mailing of final rejection on March 6, 2006.

The change of correspondence address submitted April 11, 2005 was executed by Frank Chau. The change of correspondence address submitted August 1, 2005 bore the name of Frank Chau, but was not

executed. The change of correspondence submitted September 29, 2005 was executed by Frank Chau.

As previously indicated, the record is devoid of a power of attorney to Mr. Chau. Therefore, a request to change correspondence address submitted by one not empowered before the Office to act on behalf of applicants could not be entered. See, 37 CFR 1.33. A review of the declaration submitted with the application on filing reveals that correspondence address was designated to Frank Chau at the address indicated above. However, Frank Chau is not amongst the attorneys appointed by applicants to prosecute the application.

Petitioners argue that "no indication as to why the Change of Correspondence Address documents were not being entered was given."

Petitioners are advised that papers submitted that are not properly signed by a person having authority to prosecute the application before the Office are not entered. The request to change correspondence address could not be acted upon simply because Mr. Chau has never been empowered to act on behalf of applicants. The Office would not direct correspondence to this effect to Mr. Chau as the Office was without authority to communicate with an individual not authorized to act on behalf of applicants.

Moreover, despite the undersigned having previously advised petitioners to properly submit both a proper change of correspondence address and power of attorney, to date, no such submission has been received. Petitioners are advised that no further dual correspondence will be forthcoming because, as petitioners are aware, dual correspondence is simply not permitted before the agency. All future correspondence will be mailed to the correspondence address currently of record until such time as applicants elect to comply with the rules and regulations regarding change of correspondence address and power of attorney.

Moreover, be advised that practitioner herein, Nathaniel T. Wallace, also lacks the requisite authority to act in this case before the Office as no power of attorney to said practitioner can be found in the record. This defect can readily be cured by prompt submission of a power of attorney/change of correspondence address properly executed by applicants upon renewed petition.

As to petitioners argument that holding of abandonment should be withdrawn "in the interest of fairness," petitioners arguments

have been considered but are not found convincing. The Notice of Abandonment was properly mailed, no response to the outstanding final Office action having been timely received. While petitioners contend non-receipt of the Office communication, compliance with the rules concerning power of attorney and change of correspondence address would have prevented the error now complained of.

#### **ALTERNATE VENUE**

Petitioners are strongly advised to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office  
Customer Window, **Mail Stop Petition**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

A handwritten signature in black ink, appearing to read 'Alesia M. Brown', is written over the printed name.

Alesia M. Brown  
Petitions Attorney  
Office of Petitions

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